

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

James K Moore,

Petitioner,

v.

Case No. 1:02cv850

James Erwin, Warden,

District Judge Michael H. Watson

Respondent.

**ORDER ADOPTING MAGISTRATE JUDGE'S
REPORT AND RECOMMENDATION**

Before the Court is the April 18, 2005 Magistrate Judge's Report and Recommendation (hereinafter "Report") (Doc. 10).

The parties were given proper notice, pursuant to 28 U.S.C. § 636(b)(1)(C), including notice the parties would waive further appeal if they failed to file objections to the Report in a timely manner. See *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981). To date, no objections to the Report were filed.

Upon *de novo* review of this matter, pursuant to 28 U.S.C. §636, the Court finds no error in the Report. Accordingly, the Report (Doc. 10) is hereby **ADOPTED**. This action shall be administratively **STAYED** and **TERMINATED** on this Court's active docket pending Petitioner's exhaustion of his Ohio state court remedies. The stay is conditioned on (1) Petitioner pursuing the state remedies discussed in the Report within **thirty (30) days** of the date of this Order adopting the Report and (2) Petitioner filing a motion to reinstate this matter on the Court's active docket within **thirty (30) days** of exhausting the state remedies. Upon exhausting his state remedies and complying with

the two conditions mentioned above, Petitioner will be granted leave to reinstate this case to the Court's active docket. Finally, a certificate of appealability shall not issue.

See Slack v. McDaniel, 529 U.S. 473, 484-85 (2000).

S/Michael H. Watson
Michael H. Watson
United States District Judge